

CHAPTER 39—ALTERNATIVE MORTGAGE TRANSACTIONS

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§ 3801. Findings and purpose

(a) The Congress hereby finds that—

(1) increasingly volatile and dynamic changes in interest rates have seriously impaired¹ the ability of housing creditors to provide consumers with fixed-term, fixed-rate credit secured by interests in real property, cooperative housing, manufactured homes, and other dwellings;

(2) alternative mortgage transactions are essential to the provision of an adequate supply of credit secured by residential property necessary to meet the demand expected during the 1980's; and

(3) the Comptroller of the Currency, the National Credit Union Administration, and the Director of the Office of Thrift Supervision have recognized the importance of alternative mortgage transactions and have adopted regulations authorizing federally chartered depository institutions to engage in alternative mortgage financing.

(b) It is the purpose of this chapter to eliminate the discriminatory impact that those regulations have upon nonfederally chartered housing creditors and provide them with parity with federally chartered institutions by authorizing all housing creditors to make, purchase, and enforce alternative mortgage transactions so long as the transactions are in conformity with the regulations issued by the Federal agencies.

(Pub. L. 97-320, title VIII, §802, Oct. 15, 1982, 96 Stat. 1545; Pub. L. 101-73, title VII, §744(c), Aug. 9, 1989, 103 Stat. 438.)

AMENDMENTS

1989—Subsec. (a)(3). Pub. L. 101-73 substituted “Director of the Office of Thrift Supervision” for “Federal Home Loan Bank Board”.

SHORT TITLE

Section 801 of title VIII of Pub. L. 97-320 provided that: “This title [enacting this chapter] may be cited as the ‘Alternative Mortgage Transaction Parity Act of 1982’.”

EFFECTIVE DATE

Section 807(a) of Pub. L. 97-320 provided that: “This title [enacting this chapter] shall be effective upon enactment [Oct. 15, 1982].”

IDENTIFICATION, DESCRIPTION AND PUBLICATION OF REGULATIONS INAPPLICABLE TO, OR CONFORMATION OF REGULATIONS FOR USE OF NONFEDERALLY CHARTERED HOUSING CREDITORS

Section 807(b) of Pub. L. 97-320 provided that: “Within sixty days of the enactment of this title [Oct. 15, 1982], the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan

Bank Board shall identify, describe, and publish those portions or provisions of their respective regulations that are inappropriate for (and thus inapplicable to), or that need to be conformed for the use of, the nonfederally chartered housing creditors to which their respective regulations apply, including without limitation, making necessary changes in terminology to conform the regulatory and disclosure provisions to those more typically associated with various types of transactions including credit sales.”

§ 3802. Definitions

As used in this chapter—

(1) the term “alternative mortgage transaction” means a loan or credit sale secured by an interest in residential real property, a dwelling, all stock allocated to a dwelling unit in a residential cooperative housing corporation, or a residential manufactured home (as that term is defined in section 5402(6) of title 42—

(A) in which the interest rate or finance charge may be adjusted or renegotiated;

(B) involving a fixed-rate, but which implicitly permits rate adjustments by having the debt mature at the end of an interval shorter than the term of the amortization schedule; or

(C) involving any similar type of rate, method of determining return, term, repayment, or other variation not common to traditional fixed-rate, fixed-term transactions, including without limitation, transactions that involve the sharing of equity or appreciation;

described and defined by applicable regulation; and

(2) the term “housing creditor” means—

(A) a depository institution, as defined in section 501(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980;

(B) a lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act [12 U.S.C. 1701 et seq.];

(C) any person who regularly makes loans, credit sales, or advances secured by interests in properties referred to in paragraph (1); or

(D) any transferee of any of them.

A person is not a “housing creditor” with respect to a specific alternative mortgage transaction if, except for this chapter, in order to enter into that transaction, the person would be required to comply with licensing requirements imposed under State law, unless such person is licensed under applicable State law and such person remains, or becomes, subject to the applicable regulatory requirements and enforcement mechanisms provided by State law.

(Pub. L. 97-320, title VIII, §803, Oct. 15, 1982, 96 Stat. 1545.)

REFERENCES IN TEXT

Section 501(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980, referred to in par. (2)(A), is section 501(a)(2) of Pub. L. 96-221, title V, Mar. 31, 1980, 94 Stat. 161, as amended, which is set out as a note under section 1735f-7 of this title.

¹ So in original. Probably should be “impaired”.